

## ELECTORAL.

11<sup>c</sup> Elizabeth II., No. LI.

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No. 51 of 1962.

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**AN ACT** to amend the Electoral Act, 1907-1959.

[Assented to 20th November, 1962.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Electoral Act Amendment Act, 1962*.

Reprinted,  
approved for  
reprint 26th  
February,  
1962.

(2) In this Act the Electoral Act, 1907-1959, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Electoral Act, 1907-1962.

2. Section four of the principal Act is amended by adding after the interpretation, "Minister", the following interpretation—

S. 4  
amended.

"native" means a person who is a native within the meaning of that expression as defined by section two of the Native Welfare Act, 1905; .

3. Section eighteen of the principal Act is amended by deleting the passage—

S. 18  
amended.

; or

(e) is a native according to the interpretation of that expression in section two of the Native Administration Act, 1905-1947, and is not the holder of a Certificate of Citizenship pursuant to the provisions of the Natives (Citizenship Rights) Act, 1944-1950 in the last eight lines of the section.

4. Section forty-five of the principal Act is amended by adding after subsection (4) a subsection as follows:—

S. 45  
amended.

(5) This section except subsection (4) thereof does not apply to a native.

5. Section seventy-eight of the principal Act is amended by adding after the word, "state", being the first word in paragraph (b), the passage, "the surname and each christian name,".

S. 78  
amended.

6. Section ninety of the principal Act is amended—

S. 90  
amended.

(a) by repealing subsection (1) and re-enacting it as follows:—

(1) An elector who—

(a) being enrolled for a district, has reason to believe that throughout the hours of polling on polling day, he will be more than seven miles by the nearest practicable route from any polling

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place open in the State for the purpose of an election for the Legislative Assembly;

For  
Legislative  
Council.

(b) being enrolled for a province, has reason to believe that throughout the hours of polling on polling day, he will be more than seven miles by the nearest practicable route from any polling place open in that province for the purpose of an election for the Legislative Council;

For  
Legislative  
Council and  
Legislative  
Assembly.

(e) will, throughout the hours of polling on polling day, be travelling under conditions that will preclude him from voting during those hours at any polling place open in the State;

For  
Legislative  
Council and  
Legislative  
Assembly.

(d) is seriously ill or infirm and by reason of such illness or infirmity will be precluded from attending to vote during the hours of polling at any polling place open in the State or, being a woman that will by approaching maternity be so precluded,

may at any time after the tenth day prior to the issue of the writs and before six o'clock in the afternoon of the day immediately preceding polling day, make application for a postal ballot paper. ;

(b) by adding after subsection (1) the following subsections:—

(1a) Where the elector is in the metropolitan area as that area is determined under the Electoral Districts Act, 1947, at the time he makes an application for a postal ballot paper, he may make the application at any time during the period referred to in subsection (1) of this section, to—

(a) the Chief Electoral Officer;

- (b) the Assistant Chief Electoral Officer;
- (c) a Returning Officer for any District or Province; or
- (d) a person appointed under the Local Courts Act, 1904, as Clerk for a Local Court.

(1b) Where the elector is in any part of the State that is out of the metropolitan area referred to in subsection (1a) of this section at the time he makes an application for a postal ballot paper, he may make the application, at any time during the period referred to in subsection (1) of this section, to—

- (a) any one of the persons referred to in paragraph (a), (b), (c) or (d) of subsection (1a) of this section;
- (b) a member of the Police Force appointed in writing by the Minister to issue postal ballot papers;
- (c) a town clerk or shire clerk appointed under the Local Government Act, 1960, or a person appointed by a municipality under that Act to be the assistant or deputy town clerk or the assistant or deputy shire clerk. ;

(1c) Where the elector is outside the State at the time he makes an application for a postal ballot paper, he may make the application at any time during the period referred to in subsection (1) of this section to any of the persons referred to in paragraph (a), (b), (c) or (d) of subsection (1a) of this section.

- (c) by substituting for the passage, “the subparagraphs of subsection (1)” in lines one and two of subsection (2), the passage, “paragraphs (a), (b), (c) and (d) of subsection (1a) of this section and paragraphs (a), (b) and (c) of subsection (1b)”;
- (d) by adding after subsection (7) a subsection as follows:—

(7a) When an application for a postal ballot paper is properly signed by the applicant therefor, if the issuing officer is satisfied that the applicant is entitled to a postal ballot paper, the application shall not be deemed insufficient or invalid by reason only that in the application there is an omission or incorrect description or misdescription in respect of any of the particulars required by law to be contained therein. ;

- (e) by substituting for the words, “ten point Times” in the last line of subsection (9), the words, “ten point”; and
- (f) by adding after subsection (9) a subsection as follows:—

(10) A person who, not being the applicant named in an application for a postal ballot paper,—

(a) signs as the applicant; or

(b) makes a distinguishing mark as the applicant,

on the application with or without the authority of the applicant so named, commits an offence.

Penalty: A fine of one hundred pounds or three months’ imprisonment.

S. 92  
amended.

7. Section ninety-two of the principal Act is amended—

- (a) by repealing subsection (2) and re-enacting it as follows:—

(2) (a) The elector shall complete the declaration, detach the declaration from

the ballot paper and exhibit his postal ballot paper, unmarked, to an authorised witness.

(b) The authorised witness shall then sign his name in his own handwriting on the declaration in the space provided for the purpose and shall add the date he so signs, and if—

- (i) the declaration is made in the State he shall in addition insert the address in respect of which he is enrolled as an elector for the Legislative Assembly;
- (ii) the declaration is made out of the State the authorised witness shall in addition add immediately below where he signs his name on the declaration, the title referred to in paragraph (b) or (c) of subsection (1) of section ninety-four of this Act, by virtue of which he qualifies as an authorised witness together with his then place of residence.

(c) The elector shall in the presence of the authorised witness indicate his vote on the postal ballot paper in the manner prescribed by section one hundred and twenty-eight of this Act, but so that the witness shall not see the vote.

(d) The elector shall fold the ballot paper and in the presence of the authorised witness put it in the envelope marked "ballot paper", and fasten the envelope.

(e) The elector shall enclose the declaration duly completed and the envelope marked "ballot paper" and its contents in the envelope addressed to the Chief Electoral Officer and fasten the envelope. ;

(b) by adding after paragraph (b) of subsection (5) the following paragraphs:—

(c) A person who, not being the declarant named in a declaration made under this section,—

(i) signs as the declarant; or

(ii) makes a distinguishing mark as the declarant,

on the declaration with or without the authority of the declarant so named commits an offence.

Penalty: A fine of one hundred pounds or three months' imprisonment.

(d) An authorised witness shall not witness the signature or mark of any elector on a declaration made under this section unless—

(i) he has satisfied himself as to the identity of the declarant named therein;

(ii) he has seen the declarant—

(I) sign the declaration in his, the declarant's own handwriting; or

(II) make his mark thereon; and

(iii) he knows the statements contained in the declaration are true, or has satisfied himself, by inquiry from the declarant or otherwise, that the statements contained in the declaration are true.

Penalty: A fine of one hundred pounds or three months' imprisonment. ;

(c) by adding after subsection (6) a subsection as follows:—

(7) The Chief Electoral Officer shall retain at his office in a locked and sealed ballot box all envelopes containing postal

ballot papers received by him after the close of nominations and up to eight o'clock in the forenoon on the polling day, until he commences scrutiny of the declarations relating to the postal ballot papers enclosed in those envelopes as provided in subsection (8) of this section. ;

(d) by adding a subsection as follows:—

(8) At any time after the commencement of the poll or as soon as practicable after the close of the poll, the Chief Electoral Officer or an Assistant Returning Officer appointed under section one hundred and forty-two A of this Act, together with such other Assistant Presiding Officers appointed by the Chief Electoral Officer or the Assistant Returning Officer as may be necessary, shall commence the scrutiny of the declarations relating to the postal ballot papers in manner prescribed by the regulations. ;

(e) by adding a subsection as follows:—

(9) Where a declaration relating to a postal ballot paper is not signed by the elector to whom it was issued or is not witnessed by an authorised witness in accordance with this Act, the postal ballot paper shall be rejected. ;

(f) by adding a subsection as follows:—

(10) (a) A postal ballot paper shall not be rejected for the reason only that the declaration relating to it has been enclosed with the postal ballot paper in the envelope marked "ballot paper".

(b) Where the Chief Electoral Officer has reason to believe that the declaration relating to the postal ballot paper is so enclosed, he may open the envelope marked "ballot paper" and, without permitting any person to see the ballot paper enclosed therein, and, if the



declaration is so enclosed, extract the declaration and in any case refasten the envelope containing the postal ballot paper and deal with the postal ballot paper in the prescribed manner. ; and

(g) by adding a subsection as follows:—

(11) The decision of the Chief Electoral Officer as to the rejection or admission of any postal ballot paper is subject to review only by the Court of Disputed Returns.

S. 94  
amended.

8. Subsection (1) of section ninety-four of the principal Act is amended by adding a paragraph as follows:—

(c) outside the Commonwealth any person who is enrolled as an elector on a roll for a District, any officer of the Naval, Military or Air Forces of the Commonwealth or some other part of Her Majesty's Dominions, any person employed in the Public Service of the Commonwealth or the State, any High Commissioner, Trade Commissioner or Agent General for the Commonwealth or any State of the Commonwealth;

S. 181  
amended.

9. Section one hundred and eighty-one of the principal Act is amended—

(a) by adding after paragraph (a) a paragraph as follows—

(aa) promises, offers or suggests any valuable consideration, advantage, recompense, reward or benefit for or on account of, or to induce—

(i) any enrolment, or refraining from enrolment, as an elector by a native; or

(ii) any promise of any such enrolment or refraining from any such enrolment;

and

- (b) by substituting for the words, "or opposition" in lines four and five of paragraph (b), the passage, "opposition, enrolment or refraining from enrolment referred to in either paragraph (a) or paragraph (aa) of this section".

10. Section one hundred and eighty-two of the principal Act is amended by adding after the word, "elector", being the last word in the section, the passage, "or the supply of food, drink, entertainment or transport with a view to influencing enrolment or refraining from enrolment, as an elector by a native".

S. 182  
amended.

11. Section one hundred and eighty-three of the principal Act is amended—

S. 183  
amended.

- (a) by adding after paragraph (1) a paragraph as follows—

(1a) threatens, offers or suggests any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—

(a) any enrolment or refraining from enrolment, as an elector by a native; or

(b) any promise of any such enrolment or refraining from any such enrolment;

and

- (b) by substituting for the words, "or opposition" in line five of paragraph (2), the passage, "opposition, enrolment or refraining from enrolment referred to in paragraph (1) or paragraph (1a) of this section".

12. Section one hundred and eighty-four of the principal Act is amended by adding after the word, "voter", being the last word in the section, the words, "or with the free exercise by a native of his choice whether or not to enrol as an elector".

S. 184  
amended.